UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,163	08/09/2001	John Wilkes	10006371-1	4638

7590	05/10/2006	EXAMINER

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ART UNIT	PAPER NUMBER
2162	

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 January 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-26</u> is/are pending in the application.

    4a) Of the above claim(s) <u>26</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-25</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is response to Applicant's RESPONSE filed on 01/23/2006.

2.   Claims 1-25 are pending in this Application.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1-4 and 6-25 are rejected under 35 U.S.C. 102(e) as being anticipated by

Patent No.: US 6,591,376 issued to VanRooven et al. (hereinafter VanRooven).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art

under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not the

invention "by another," or by an appropriate showing under 37 CFR 1.131.

With respect to claim 1, a method of retrieving data from a data storage medium

(retrieving data/information from ROM for execution by the processor: fig. 1, and col. 2,

lines 12-40), comprising:

loading a program from data storage medium into a computer system (loading or

executing program/software routines: col. 1, lines 15-35, col. 5, lines 35-60 and col. 6,

lines 18-35; also see fig. 2), the program including at least a first routine for responding

to a first request for access to the data storage medium, and a second routine for

responding to a second request type for access to the data storage medium (software

program having various software routines that control operation of the device, a random

access memory; or file system, one type of operation, in which invoked routines and

data files are stored and archival copies of primary images, another type of operation:

col. 2, lines 12-64; also see fig. 4);

receiving a request for access to data stored on the data storage medium

(receiving or accessing a request corresponding to file systems in the computer system:

fig. 2, col. 5, lines 35-60);

determining whether the request is of the first type or the second type (fig. 4,

restoration operation carrying out by the script routines executed by the OS kernel: col.

4, lines 55-67, and col. 5, lines 1-62);

calling the first routine for accessing the data when the request is of the first type

and calling the second routine for accessing the data when the request is of the second

type (calling one of the script routines for data: col. 2, lines 12-40 and col. 18, lines 5-

10); and

presenting the requested data (displaying the information to a user: col. 2, lines

1-12).

With respect to claim 2, VanRooven teaches wherein the first routine implements a first set of operations and the second routine implements a second set of operations (file system operations and archiving operations: software program having various software routines that control operation of the device, a random access memory; or file system, one type of operation, in which invoked routines and data files are stored and archival copies of primary images, another type of operation: col. 2, lines 12-64; also see fig. 4).

With respect to claim 3, VanRooven teaches wherein the first set of operations including file system operations (restoration operation: fig. 4, col. 6, lines 35-45).

With respect to claim 4, VanRooven teaches standardized archival operations (col. 2, lines 65-67 and col. 3, lines 1-25).

With respect to claim 6, VanRooven teaches wherein the first request type includes a request for one or more files from a file system (col. 2, lines 12-64 and col. 3, lines 62-67 and col. 4, lines 1-67).

With respect to claim 7, VanRooven teaches reformatting all of the data as a file structure (col. 34, lines 48-67).

With respect to claim 8, VanRooven teaches a request for one or more volumes (col. 5, lines 35-67 and col. 6, lines 1-35).

With respect to claim 9, VanRooven teaches a request for an image copy of the data (col. 5, lines 35-67 and col. 6, lines 1-35).

With respect to claim 10, VanRooven teaches wherein the first request type is by a first target system type and the second request type is by a second target system type (col. 2, lines 12-64; also see fig. 4; col. 4, lines 55-67 and col. 5, lines 1-32).

With respect to claim 11, VanRooven teaches wherein said presenting the requested data includes formatting the data in accordance with the target system type (formatting data: in script routine "Linuxrc: col. 12, lines 55-67, col. 13, lines 1-67 and col. 15, lines 1-55).

With respect to claim 12, VanRooven teaches wherein the program includes information about the data (script routine "Linuxrc": col. 12, lines 55-67, col. 13, lines 1-67 and col. 15, lines 1-55).

With respect to claim 13, VanRooven teaches wherein the information about the data includes a file system directory (col. 3, lines 62-67 and col. 4, lines 1-67; also col. 29, lines 15-48 and col. 30, lines 15-48).

With respect to claim 14, VanRooven teaches wherein the data is stored on the data storage medium as raw data blocks (col. 29, lines 15-48).

With respect to claim 15, VanRooven teaches a computer usable medium having data stored thereon and a computer usable medium having data stored thereon and having computer readable program code stored thereon, the computer readable program code including a first routine and a second routine, the first routine for accessing the data in response to a request for access to the data as one or more raw data blocks and a-the second routine for accessing the data in response to a request for access to the data as a file structure. (fig. 1, and col. 2, lines 12-40; loading or executing

program/software routines: col. 1, lines 15-35, col. 5, lines 35-60 and col. 6, lines 18-35;

also see fig. 2; software program having various software routines that control

operation of the device, a random access memory; or file system, one type of operation,

in which invoked routines and data files are stored and archival copies of primary

images, another type of operation: col. 2, lines 12-64; also see fig. 4 and col. 29, lines

15-48).

With respect to claim 16, VanRooven teaches a logical volume (col. 5, lines 35-

67 and col. 6, lines 1-35).

With respect to claim 17, VanRooven teaches an image copy of the data (col. 5,

lines 35-67 and col. 6, lines 1-35).

With respect to claim 18, VanRooven teaches all of the data as a file structure

(col. 34, lines 48-67).

With respect to claim 19, VanRooven teaches a specified file (col. 4, lines 55-67

and col. 5, lines 1-32).

With respect to claim 20, VanRooven teaches wherein the program code

includes information about the data (script routine "Linuxrc": col. 12, lines 55-67, col. 13,

lines 1-67 and col. 15, lines 1-55).

With respect to claim 21, VanRooven teaches wherein the information about the

data includes a file system directory (col. 3, lines 62-67 and col. 4, lines 1-67; also col.

29, lines 15-48 and col. 30, lines 15-48).

With respect to claim 22, VanRooven teaches a computer usable medium having

data stored thereon and having computer readable program code thereon, the computer

readable program code including a first routine a first routine and a second routine. the

first routine for accessing the data in response to a request from a first target system

type and a second routine for accessing the data in response to a request from a

second target system type (fig. 1, and col. 2, lines 12-40; loading or executing

program/software routines: col. 1, lines 15-35, col. 5, lines 35-60 and col. 6, lines 18-35;

also see fig. 2; software program having various software routines that control

operation of the device, a random access memory; or file system, one type of operation,

in which invoked routines and data files are stored and archival copies of primary

images, another type of operation: col. 2, lines 12-64; also see fig. 4 and col. 29, lines

15-48).

With respect to claim 23, VanRooven teaches wherein said program presents the

requested data formatted in accordance with the target system type (col. 2, lines 42-67

and col. 3, lines 1-25).

With respect to claim 24, VanRooven teaches wherein the data is stored on the

data storage medium as raw data blocks (col. 29, lines 15-48).

With respect to claim 25, VanRooven teaches a computer usable medium having

data stored thereon and having computer readable program code stored on secondary

storage associated with the computer usable medium, the computer readable program

code including a first routine and a second routine, the first routine for accessing the

data in response to a request of a first request type and a second routine for accessing

the data in response to a second request type, wherein the secondary storage is built

into a cartridge for the data storage media (fig. 1, and col. 2, lines 12-40; loading or

executing program/software routines: col. 1, lines 15-35, col. 5, lines 35-60 and col. 6,

lines 18-35; also see fig. 2; software program having various software routines that

control operation of the device, a random access memory; or file system, one type of

operation, in which invoked routines and data files are stored and archival copies of

primary images, another type of operation: col. 2, lines 12-64; also see fig. 4 and col.

29, lines 15-48).

5.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patent

No.: US 6,591,376 issued to VanRooven et al. (hereinafter VanRooven) in view of Pub.

No. 2002/0152194 of Ramaprakash H. Sathyanarayan (hereinafter Sathyanarayan).

With respect to claim 5, VanRooven teaches a method for retrieving data from a

data storage media as discussed in claim 1.

VanRooven teaches accessing data from a storage medium, executing a

software program storing on the storage medium; and the software program includes a

various software routines to do some type operations such as file system and archival

operations and displaying the information to the user. VanRooven does not clearly

teache CPIO and TAR.

However, Sythyanarayan teaches utilities in a Unix Operating system consisting

of CPIO (COpy In/Out) and TAR (Tape Archiver) (Page 1, section 0001).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to combine the teachings of VanRooven with the

teachings of Sythyanarayan by incorporating the use of Unix Operating system's

archiving utilities for backing up systems, creating file archives. The motivation being to

have operations including CPIO and TAR utilities for archiving and restoring data file

and speed up archival operations and a copy process is also speeded up by transferring

data from /to data storage media and to minimize problems caused by the different

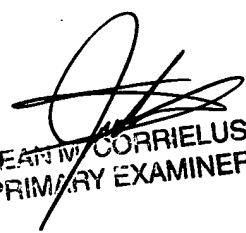types of storage devices having different data storage formats.

Contact Information

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh Ly whose telephone number is (571) 272-4039 or via E-Mail: ANH.LY@USPTO.GOV **(Written Authorization being given by Applicant (MPEP 502.03 [R-2])) or fax to (571) 273-4039 (Examiner's personal Fax No.)**. The examiner can normally be reached on TUESDAY – THURSDAY from 8:30 AM – 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene, can be reached on (571) 272-4107 or **Primary Examiner Jean Corrielus (571) 272-4032.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see **http://pair-direct.uspto.gov**. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Any response to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, or faxed to:

Central Fax Center: (571) 273-8300

ANH LY
MAY 3rd, 2006

JEAN M. CORRIELUS
PRIMARY EXAMINER